

Hon. Ricardo S. Martinez  
Hearing Date: May 28, 2010

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ARCH INSURANCE COMPANY, ) Cause No.: C09-0602 RSM  
Plaintiff, ) AFFIDAVIT OF MARK DYNAN RE:  
vs. ) SCOTTSDALE'S MOTION TO COMPEL  
SCOTTSDALE INSURANCE COMPANY, a )  
foreign corporation; and NORTHWEST )  
TOWER CRANE, a Washington corporation, )  
Defendants. )

STATE OF WASHINGTON )  
COUNTY OF PIERCE )ss.  
COUNTY OF PIERCE )

MARK DYNAN, being first duly sworn upon oath deposes and says:

1. I am an attorney licensed to practice in the State of Washington.
2. I was originally appointed as defense counsel for Lease Crutcher Lewis, by Arch Insurance Company. The instant case arises out of a construction project known as the Tower 333 Project. In that Project, Lease Crutcher Lewis ("LCL") was the general contractor. On



1 November 16, 2006, a tower crane at the site collapsed causing significant damage to adjacent  
2 sites and killing a tenant in one of the neighboring buildings.

3 3. While some of the lawsuits that were brought as a result of the accident, have  
4 been resolved, there are still four cases pending for litigation. I am still defending LCL in these  
5 lawsuits. In addition, there are two cases on appeal in which I am representing the interests of  
6 LCL.

7 4. In the course of my defense work, I have been in communication with officials  
8 of LCL. I have also been in communication with the adjusters for Arch Insurance Company.

9 5. When the insurance limits of Arch were exhausted, another company that had  
10 issued an excess coverage (umbrella) policy also retained this office to continue to represent  
11 LCL in the remaining lawsuits.

12 6. I have been instructed by corporate counsel for LCL to preserve the attorney-  
13 client and work product privileges that I may have in the pending matters. Accordingly, I  
14 believe that I am barred from producing some of the documents requested by counsel for  
15 Scottsdale Insurance Company. I also believe that I am barred from answering certain  
16 questions which might be put to me by counsel for Scottsdale.

17 7. I am willing to answer any question which is not subject to an attorney-client or  
18 work product privilege. My counsel, Gary Branfeld, has so advised counsel for Scottsdale  
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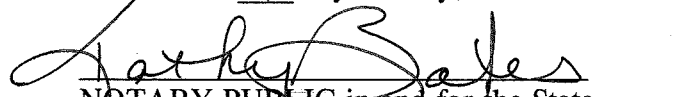
1 Insurance Company. Based on the foregoing, I would request that the Motion to Compel as  
2 against me be denied.

3 FURTHER AFFIANT SAYETH NOT.

4 Dated at Tacoma, Washington, on the 14 day of May, 2010.

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6   
7 MARK DYNAN

8 SUBSCRIBED AND SWORN to before me this <sup>12</sup>14 day of May, 2010.

9   
10 NOTARY PUBLIC in and for the State  
11 of Washington, residing at SPANAWAY  
12 My commission expires: 8-19-2010  
13 Print/Type Name: Kathy A. Bates  
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